(Gajendra Chobisa & ors. Vs. State of Raj. & ors.]
S.B.C.Writ Petition No. 1434/2003.
(Shankar Lal & ors. Vs. State of Raj. & ors.]
S.B.C.Writ Petition No. 4835/2004.
(Laxman Lal & ors. Vs. State of Raj. & ors.]
S.B.C.Writ Petition No. 6993/2003.

Date of order: 22nd December, 2006.

HON'BLE MR MOHAMMAD RAFIQ, J.

Mr P.P.Choudhary, for the petitioners.
Mr O.P.Boob, Addl.G.A., for respondents.

The aforesaid three writ petitions have been filed by the petitioners with the prayer that respondents be directed to grant them regular pay scale on the post of Class-IV employees from the date of their initial appointment with consequential benefits and may also be directed to make payment of salary on the post of Gopal on monthly basis.

According to the petitioners, the respondents promulgated a scheme known as Intensive Care breeding Gopal programme in state of eastern district of Rajasthan. The object of the scheme was to transfer for scientific rearing and management practices thereby

improving the traditional status of the animals and their breed. The respondents for that purpose recruited youths from rural areas. Reference has been made to clause vii(ii) of the scheme according to which selection of Gopal is made from among the candidates who are educated having passed at least VIII standard. The selection is required to be made by the committee consisting of Sarpanch of the village, Veterinary Assistant Surgeon and District Animal Husbandry Officer as its Chairman. The learned counsel has referred clause viii (i) of the scheme which provides that the project will at any rate employ 400 educated youth at their own village. The petitioners were required at the time of appointment to submit an affidavit on non judicial stamp of Rs. 5/- in which they had to undertake that those selected on the post of Gopal would be working under the instructions of the departmental authorities and the amount of incentive paid by the Panchayat would be considered as salary and would be merely an incentive money. It was argued that according to clause (iv) of the said affidavit, in case any person working as Gopal leaves the programme in

between, he will have to refund the entire amount paid by the Animal Husbandry Department on his studies. The affidavit also required that the Gopal shall have to work under the supervision of Fisheries Department and undertake that in case they leave the work in between, they would have to return the entire amount spent on their studies. It was argued that petitioners are subject to all those controls which are available in the case of regular government servants. In support of his arguments, the learned counsel for the petitioners has relied upon the judgment in Arun Kumar Rout Vs. State of Bihar (1998) 9 SCC 71; State of Bihar & ors. Vs. Bihar Rajya Sahkarita Prabandhak Seva Sangh, Patna & ors., JT 1998 SC 600; and Khagesh Kumar & Ors. Vs. Inspector General of Registration & ors., AIR 1996 SC 417.

All these judgments which have been relied on by learned counsel for the petitioners are on question of regularization in service but the law on that question has since been considerably watered down by the Hon'ble Supreme Court in the case of Uma Devi Vs. State of

Karnataka; (1996) 4 SCC 1.

The writ petition, therefore be allowed in terms of the relief above.

The respondents have contested the writ petition and in the reply have submitted that Gopal Scheme was basically meant to enable the unemployed youths of rural areas to make themselves employed. Gopal was not a post, but was only a name given to the volunteers. The entire scheme is a voluntary scheme in which youth having passed VIIIth Standard are imparted training of four months. There is as such, no regular post of Gopal nor any selections are made nor are there any recruitment rules for appointment on any such post of Gopal. He submitted that those working on the post of Gopal cannot compare themselves as regular employee. The minimum qualification for appointment on the post of Veterinary Compounder is XII passed whereas the Gopal (volunteers) are required to possess merely VIII passed training. According to the respondents, a stipend of Rs.

500/- per month is paid to the Gopal during training programme whereas for the first year, they are paid Rs. 400/- for second year at Rs. 300/- and lastly for the third year at Rs. 300/- per month. It has been denied that Gopals were selected for the purpose of appointment. It is, therefore, prayed that the petition be dismissed. The learned counsel for the respondents has invited my attention towards the proceedings headed by Chief Secretary of the State with State Level Project and Development Co-ordinate Committee, Animal Husbandry, Sheep and Wool. In this meeting, a decision was taken to reserve 10% posts of Class-IV employees for being filled up from those amongst those holding the post of Gopal.

Having considered the arguments of learned counsel for the parties and having perused the record, I find that the respondents did not create any regular post known as Gopal. It is merely a scheme to employ youths from the villages to train them in the working of rearing and breeding of animals and in that process, they are

permitted to realise certain charges from the residents / villagers. They are merely required to complete four months training period. All these eventualities would lead to make them more efficient in their working. Clause 9.1 of the aforesaid scheme provides that apart from providing the monthly stipend as aforesaid, it has also provided that such trained youths would charge fee fixed by the Government. The object of the scheme is not to create employment although the respondents in the scheme have loosely referred to it as employment though there is no regular post rather no regular salary payable to Gopal. Without the existence of regular posts, direction of either payment of regular salary of the post of Class IV nor for regularisation of their services can be given which even otherwise has now completely been barred by Constitutional Bench of the Hon'ble Supreme Court in Uma Devi (supra). The respondents themselves taking into consideration the fact that large number of youths from rural areas have been working for long on the post of Gopal have provided for reservation of 10% posts of Classs IV employees in the Department. The

grievance of the petitioners in so far as consideration of their cases for appointment on regular post is concerned has been conceded even by the respondents although in a limited way. Thus, if and when the case of the petitioner will fall in 10%, their cases shall be considered at the end of the respondents.

In view of the above discussion, I do not find any merit in these writ petitions and the petitions are accordingly dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.

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